

EPA rebuked; Union Township landfill pollution case dismissed

By Robert Wolf
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An attorney for Keystone Sanitation Co. Inc. landfill owners said Monday that the U.S. Environmental Protection Agency should reconsider plans for a second study of off-site contamination around the Superfund site in Union Township.

Last week, a federal district court judge summarily dismissed all civil claims by Timothy and Marcia Brown and Cloyd and Dorothy Willow of Union Township that the Keystone landfill caused groundwater contamination at their lands.

Bob Hoffman of the law firm EPA

Reed, Smith, Shaw and McClay questioned the validity of an EPA "Second Operable Unit" to study contamination outside the landfill placed on EPA's National Priorities List in 1987.

"They're probably not required to change their minds, but they should certainly give it a lot of serious consideration," Hoffman said.

He said the EPA Remedial Investigation and Feasibility Study findings cited by U.S. Middle District Court Judge Sylvia Rambo in dismissing charges against Keystone were not specific to the Browns' farm property.

(See LANDFILL on page 10A)

Landfill

(From page 1A)

He said the EPA study included land in all directions around the landfill boundaries.

Hoffman said there is no need for a second part of the EPA study started in 1989 and completed with a record of decision in 1990 with a proposed cleanup costing \$11 million and taking at least 30 years. He said off-site contamination was studied by EPA in 1988-90, according to Rambo's findings.

In her 85-page ruling, Rambo noted that 83 percent of soil, streambeds, monitoring well and residential well sampling locations done in the EPA remedial investigation of the 40-acre landfill were located off-site.

She also quoted a section of the R/FS report noting that off-site contamination was a primary objective of the study.

"The overall notion in this OU-2 that they need to study off-site because they didn't do that before is local and complete baloney," Hoffman said.

"In my view, the second operable unit has been proposed and developed solely to appease the community and for no valid scientific reasons," he said.

The EPA report that Rambo cited included statements that the "magnitude of off-site groundwater contamination is small"; the clean-up plan "will prevent further releases of contaminants to the groundwater..."; "off-site residential wells in the area are not affected by the site..."; "sampling of the residential wells did not reveal contamination, at this point in time, EPA will not provide bottled water or filters."

Hoffman also noted that the Willows and Browns were the two fam-

ilies that lived closest to the landfill. He raised doubts about the claims of families living further south in Maryland that they have suffered groundwater contamination caused by the Keystone landfill.

"The water can't go into Maryland without crossing the Browns' (property). The Browns are right in the pathway," Hoffman said. "Anybody that says that, I don't think they have any idea what they're talking about," he said. "This is a good story," Hoffman said. "Keystone has been a target of community anger, frustration and worry for about 10 years now. And we finally go to court, and who wins?"

The court found that Keystone had not caused any harm to the environment of the people who live closest to it," Hoffman said. Judge Rambo's ruling also cited the 1986 report by the Maryland Department of Health that indicated "trace volatile organic contamination" originating at Keystone landfill being found southwest of the landfill. The Browns cited that report in their claims against Keystone landfill.

The report only reported trace levels of contaminants, which did not present any danger to humans, and concluded the drinking water was safe. That 1986 Maryland study was the basis for a criminal suit filed by the Carroll County State's Attorney's office and then withdrawn from "insufficient evidence" on the scheduled trial day in 1989.

In her decision, Rambo noted that the EPA conceded it found no contamination at the Browns' farm, but private testing found low levels of contaminants that were probably from other activities, like agricultural pesticide use, and none found at the Willow farm. The Willows did not testify in the case. Rambo also noted the testimony of Kenneth Gill, an analytical chemist who took water samples at the Brown farm, and found the contaminant levels lower than the levels in his Baltimore City kitchen tap water.

Marcia Brown said she and her husband, who now live on another farm outside Littlestown, have not seen Rambo's final ruling yet. "We were very disgusted," she said, declining any other comment until later.

Christopher Corbett, the EPA's Superfund remedial project engineer for the Keystone site, was not available for comment. Franklin Kury, another Smith, Reed, Shaw and McClay attorney who has represented Keystone owners Kenneth and Anna Noel, said the court ruling was a vindication for his clients.

"That particular case is a total victory for the Noels and Keystone," he said, noting that Rambo's decision was firm about no off-site contamination. "The plaintiffs couldn't prove anything," he said.

"I think the most important thing here is that whatever problems that these people have, the court found they were caused by problems other than Keystone," Kury said.

He said his clients have always contended that the claims against them have been exaggerated by people whose feelings are inflamed, but they don't have any fact to base it on.

"The judge found the Noels ran their property in conformance with the law, and there was no receipt of hazardous waste at that site," Kury said.

"I'm very happy for the Noels. I think they deserve it. I think they deserve what they got," he said.